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RECEIVED AND FILED
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N.J. BOARD OF DENTISTRY
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :

Administrative Action

ALFRED V. SABATO, D.M.D. :
License No. DI 01926100 :

CONSENT ORDER

LICENSED TO PRACTICE DENTISTRY :
IN THE STATE OF NEW JERSEY :

This matter was originally opened to the New Jersey State Board of Dentistry ("Board") following the arrest of Alfred V. Sabato, D.M.D. ("respondent") for driving under the influence, refusal to submit to a breathalyzer exam, possession of CDS in a motor vehicle, possession of CDS or analog, reckless driving and harassment. Ultimately, respondent pled guilty to the DWI charge and all other charges were dropped.

As a result of respondent's arrest and conviction, the Board sent a letter to respondent's address of record, via regular and certified mail, requesting he appear for an investigative inquiry. Respondent failed to respond and did not appear for the inquiry. As a result, a subpoena was personally served upon respondent demanding his appearance before the Board. In addition to his appearance, the subpoena also required respondent to produce patient records for four named patients who filed complaints with the Board. However, respondent failed to appear before the Board on the return date for the subpoena and failed to produce the requested patient records.

On July 25, 2006, the Board entered a Provisional Order of Discipline based on

respondent's failure to appear before the Board and his failure to provide the requested patient records. After considering respondent's response to the provisional order, the Board entered a Final Order of Discipline dated September 5, 2007. The Board took disciplinary action against respondent based on professional or occupational misconduct, pursuant to N.J.S.A. 45:1-21(e), in that respondent failed to cooperate with an investigation of the Board in contravention of N.J.A.C. 13:45C-1.3. Specifically, the final order held that respondent failed to provide requested patient records and failed to personally appear before the Board in response to a subpoena.

The Final Order of Discipline suspended respondent's license for a minimum of thirty (30) days beginning October 1, 2007. Upon completion of the thirty day minimum period of suspension, the suspension was to continue indefinitely until such time as respondent provided the patient files requested and satisfactorily cooperated with the Board's investigation. Respondent was also assessed a \$5,000 civil penalty.

Subsequent to the entry of the Final Order of Discipline, respondent submitted a request for reinstatement of his license. In response, the Board held an investigative inquiry, attended by respondent, on December 5, 2007. Dr. Edward Reading from the Professional Assistance Program ("PAP") accompanied respondent. Respondent testified he was unable to provide the requested patient records to the Board because he was in the middle of a bitter divorce and there was a restraining order in place which prevented him from getting into the office. Respondent's wife worked at the practice which made it difficult for him to receive his mail. As a result, he was not immediately aware of the Board's request for the patient records. Respondent stated that when he became aware of the Board's request for the records, he sent the originals directly to the patients and did not retain copies.

When asked why he failed to respond to the subpoena served upon him from the Board, respondent replied that he was ill. He indicated he left a voice mail message with the Board informing of his inability to appear. When asked about his possession of CDS when arrested, respondent stated he was in possession of medications needed to treat a medical condition. Respondent stated that his condition does not impair his ability to practice dentistry. However, respondent testified that he was addicted to the pain medication he took to treat his medical

condition.

Respondent also testified with regard to his participation in the PAP. He has been involved with the PAP since August, 2007. Respondent provides two urine screens per week and once a month meets with a counselor from the PAP. Dr. Reading from the PAP also testified. Dr. Reading confirmed that respondent requires narcotic medications to help with his documented medical condition. Dr. Reading also stated that respondent meets with a pain management specialist. Because respondent requires narcotics to treat his medical condition, respondent is urine monitored to make sure that the level of narcotic usage is appropriate. According to Dr. Reading, there has been no indication that there has been narcotic usage above what is medically required.

Subsequent to the appearance, respondent submitted to a psychological evaluation prior to determination of his reinstatement request. The evaluation recommended, based on his medical condition, continued management with a pain specialist, continued medication management with a psychiatrist, group therapy, and involvement with the PAP. It was also reported by respondent that he has been unable to pay his child support payments which resulted in an arrest for non-payment.

PAP also submitted a report to the Board recommending that respondent's dental license be reinstated with conditions. PAP recommended that respondent abstain from all psychoactive substances unless prescribed by a treating physician, attend a minimum of three Alcoholics/Narcotics Anonymous meetings per week and submit to twice weekly urine monitoring.

Having considered the testimony of respondent and the reports provided, the Board has determined that respondent may have his license reinstated subject to the requirements outlined in this order. Respondent appears to be doing well at this time. However, the Board is keenly aware of respondent's history and therefore any deviation from the terms of this order will result in immediate suspension of license. The Board finds that such a provision coupled with certain recommended requirements placed on respondent by this order are adequate to protect the health, safety and welfare of the public, and that good cause exists for entry of this order.

IT IS THEREFORE ON THIS 11th DAY OF November, 2008
HEREBY ORDERED AND AGREED THAT:

1. Respondent's license to practice dentistry in the State of New Jersey is hereby reinstated subject to the restrictions in this order.

2. Prior to reinstatement of license, respondent shall submit to the Board proof that the court has addressed his child support obligations, and that they do not pose a bar to professional licensure.

3. Respondent shall abstain from any and all intoxicating substances, including but not limited to alcohol, as well as any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his own treatment, and disclosed in advance of use to the PAP. In addition, respondent shall advise any and all treating physicians and/or dentists of his history and current opioid dependence. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than two (2) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

4. Respondent shall maintain enrollment in the Physician's Assistance Program (PAP) and follow all their recommendations for treatment and counseling, including but not limited to, continued management with a pain specialist, continued medication management with a psychiatrist, attending support groups, including NA or AA as directed by the PAP, and shall submit to urine monitoring to be coordinated with PAP subject to the conditions for urine monitoring set forth in paragraph 5 below. Respondent shall provide evidence of attendance at NA/AA groups directly to the PAP and to the Board on a quarterly basis. For purposes of this order, the first quarter commences on October 1, 2008. The first submission shall be due not later than January 1, 2009 for all NA/AA attendance for the months of October, November and December of 2008. If respondent discontinues participation with the PAP or attendance at any support group, without first obtaining approval of the Board and the PAP, he shall be deemed in violation of this Order.

5. (a) Respondent shall submit to random urine screens a minimum of twice per week. The urine screen monitoring program, as well as the laboratory facility conducting the urine testing, must be approved by the Board. The Board shall provide respondent and the PAP with specific directions for the protocol of the testing procedure. All urine screens must be directly observed and respondent shall comply with all additional urine screen procedures and protocols outlined and prescribed by the Board. The urine screen requirement shall continue until further order of the Board expressly reducing or discontinuing testing. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests shall be performed by gas/chromatography/mass spectrometry (G.C./M.S). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(b) All test results shall be provided to Jonathan Eisenmenger, Executive Director of the Board, or his designee in the event he is unavailable. The Board retains sole discretion to modify the manner and the extent of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c) Any failure by respondent to submit or provide a urine screen within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Jonathan Eisenmenger, or his designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d) In the event respondent will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing.

(e) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.003 shall be deemed dilute and a presumption of a confirmed positive urine test shall arise requiring a confirming test by hair analysis or other appropriate means.

(f) Respondent shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen for substances other than those medications prescribed for a legitimate medical condition and disclosed in advance to the PAP in accord with paragraph 3 above; or for medication levels above those deemed acceptable by the PAP. Nor shall ingestion of such substances be an acceptable reason for failure to comply with the urine monitoring program.

6. PAP shall submit quarterly status reports to the Board with immediate notification of any evidence of non-compliance.

7. Respondent shall only be permitted to prescribe controlled dangerous substances for patients as required in connection with dental treatment or administer medication to patients in the course of dental treatment, in accordance with the following terms and conditions:

(a) Respondent shall use sequentially numbered, triplicate prescription pads for all prescriptions written.

(b) Respondent shall provide the original prescription to the patient, attach one copy of the prescription to the patient record, and submit the third copy to the Board, attention Jonathan Eisenmenger, Executive Director, on a quarterly basis. For purposes of this order, the first quarter commences on October 1, 2008. The first submission shall be due not later than January 1, 2009 for all NA/AA attendance for the months of October, November and December of 2008.

(c) Respondent shall be required to account for each consecutively numbered prescription, regardless of whether the particular prescription was voided or not used for any purpose whatsoever.

8. Respondent's payment of the \$5,000 civil penalty, pursuant to the Final Order of Discipline dated September 5, 2007, shall be stayed for one year from the entry date of this order. The payment of the \$5,000 civil penalty shall be discharged without payments after one year from the entry date of this order if there are no violations of this order and no violations of the Board's statutes and regulations.

9. Respondent may seek modification of the terms of this order not sooner than one (1) year from its entry. Prior to any modification or removal of restrictions set forth in this order, respondent shall:

(a) Appear before the Board or a committee of the Board to discuss his recovery and to demonstrate to the satisfaction of the Board that he is not then suffering from any impairment or limitation resulting from any psychiatric condition or the use of any substance, whether legal or illegal, which could affect his practice;

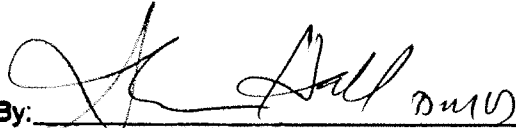
(b) Prior to his appearance, respondent shall provide the Board with reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who have participated in respondent's care and/or treatment during the period of time from his entry into treatment to his appearance and the Board may require receipt of a report of an independent psychiatric evaluation with a Board approved psychiatrist.

10. Respondent hereby consents to the entry of an order of automatic suspension of license without notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable demonstrating that respondent is not capable of carrying out the functions of a licensee consistent with the public health, safety or welfare or that respondent has failed to comply with any of the conditions set forth in this consent order, including but not limited to report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of drug or alcohol abuse.

11. Respondent shall have the right to apply for removal of the automatic suspension on five (5) days notice but in such event shall be limited to a showing that the urine tested was not his or was a false positive in the case of urine testing, or that other information submitted was false.

12. Respondent shall provide any and all releases to any and all parties who are participating in the monitoring, treatment or other program as outlined in this order, as may be required, in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. Via his signature on this order, respondent agrees that the Board may utilize any information received in connection with any proceeding regarding licensure.

NEW JERSEY STATE BOARD OF DENTISTRY

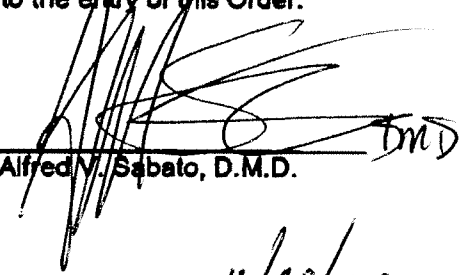
By: 
Alexander Hall, D.M.D., President

I hereby agree to the entry
of this order as to form.


Doreen J. Pilligan, Esq.
Sterns & Weinroth, PC

October 31, 2008
Date

I have read and I understand this
Consent Order and agree
to be bound by its terms. I consent
to the entry of this Order.


Alfred V. Sabato, D.M.D.

10/29/08
Date